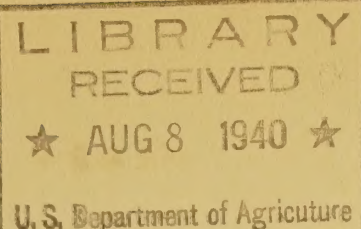


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Southern Region Miscellaneous Series Issued June 20, 1940



UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION

PROCEDURE FOR HANDLING CASES UNDER THE 1940 AGRICULTURAL CONSERVATION
PROGRAM WHERE THE FARM COTTON ACREAGE ALLOTMENT HAS BEEN OVERPLANTED

PART I. - GENERAL

This procedure is for the guidance of county and State committees and others in determining whether overplanting of a cotton acreage allotment was done knowingly or unknowingly.

Any person who knowingly plants cotton on a farm in 1940 in excess of the cotton acreage allotment established for the farm for 1940 is not eligible to receive or retain any payment under the 1940 Agricultural Conservation, Range Conservation, or Naval Stores Conservation Program. If cases should arise where the official notice given to the farm operator incorrectly stated the allotment, the allotment as it is finally corrected, if larger, shall be used in determining whether the allotment was knowingly overplanted; but if the allotment as finally corrected is less than that erroneously issued, the figure shown in the erroneous notice shall be used if it clearly appears that the producer completed his planting (seeding) of cotton in reliance upon it and did not know or have good cause for believing that the allotment notice was erroneous.

PART II. - WHERE PLANTING IS COMPLETED AFTER ALLOTMENT IS RECEIVED.

In cases where the cotton acreage allotment is overplanted in 1940 and the planting (seeding) of cotton on the farm was completed after official notice of the cotton acreage allotment was mailed to the farm operator --

A. All producers entitled to share in the cotton crop on the farm, or its proceeds, will be presumed to have knowingly planted cotton in excess of the cotton acreage allotment established for the farm.

B. The presumption raised, as described in A above, may be rebutted --

(1) as to any producer on the farm, by strict and convincing proof that the excess acreage was planted because of a bona fide mistake as to the number of acres in the fields planted to cotton; or

(2) as to any producer who did not participate in the planting of the cotton (either by his own labor or by labor procured or used by him for that purpose), by convincing proof that the excess acreage was planted without his knowledge and without his consent, or, if planted with his knowledge but without his consent, by strict and convincing proof that he made every reasonable effort to prevent the planting of cotton in excess of the cotton acreage allotment for the farm.

C. Where the check of performance shows that the acreage planted to cotton exceeds the cotton acreage allotment, the presumption mentioned in A shall attach to all producers having an interest in the cotton crop on the farm. However, this presumption is not conclusive and may be overcome by a satisfactory rebuttal made as provided in B above. Producers shall be given a reasonable opportunity to present promptly such proof as they desire to submit with respect to any pertinent matters.

D. The provisions of B(1) above apply to all producers having an interest in the cotton crop on the farm but a satisfactory rebuttal by one producer on the farm shall excuse all such producers. Since a producer who is actually on the farm can, with a reasonable degree of diligence, inform himself of the number of fields planted or being planted to cotton, such a producer may excuse himself, not by proving that he did not know how many fields were planted or being planted to cotton, but only by proving, as prescribed above, that he was honestly mistaken as to the number of acres in one or more of the fields planted and that the overplanting took place because of such mistake. For example, in the case of a farm with an allotment of 15 acres, if the producer knows that fields numbered 1, 2, and 3 are being planted and honestly believes, because of measurements shown in a former survey or a deed or other information upon which a reasonable and prudent person would rely, that each field contains 5 acres, and it is subsequently ascertained that field No. 3 contains 6 acres, he should be excused. But if the producer thought that fields 1, 2, and 3 (each actually containing 5 acres) were being planted, he will not under this rule be able to rebut the presumption raised against him if field No. 4 is also planted.

E. The provisions of B(2) above apply only to persons who do not participate in the planting of cotton on the farm (either by their own labor or by labor procured or used by them for that purpose), but who are classed as cotton producers simply because they have an interest in the cotton crop. Such a

producer may overcome the presumption raised against him by proving (by contemporaneous correspondence or records or the testimony of persons, including himself, as to matters within their own knowledge) that he not only did not know how many fields on the farm were being planted to cotton but also that he exercised reasonable diligence in trying to ascertain the number of such fields and the aggregate acreage of cotton which was being planted thereon and that he did all he could to cause the farm to be within its acreage allotment. He may also excuse himself, even if he knew that the farm was being overplanted, by proving that he did not consent to the overplanting. Since in the latter case consent will be presumed from a failure to make all reasonable efforts to prevent the overplanting, such a producer must also prove that he made every reasonable effort to prevent the overplanting. Satisfactory rebuttal by such a producer shall not excuse any other producer on the farm.

PART III. - WHERE PLANTING WAS COMPLETED BEFORE ALLOTMENT WAS RECEIVED.

In cases where the cotton acreage allotment is overplanted in 1940 and the planting (seeding) of cotton on the farm was completed prior to the mailing of notice of the cotton acreage allotment to the farm operator --

A. All producers entitled to share in the cotton crop, or its proceeds, grown on the farm will be presumed to have knowingly planted, or caused to be planted, cotton in excess of the cotton acreage allotment established for the farm --

(1) if the number of acres planted to cotton on the farm exceeds the number of acres which the producer might reasonably have expected to be allotted to the farm, or

(2) if through error or oversight no notice was mailed, but the fact that cotton acreage allotments had been or were being established was known to the producer or was generally known in the neighborhood and, without making a reasonable effort to ascertain the amount of the allotment for his farm, he planted a number of acres which exceeded the acreage allotment for his farm.

B. The presumption raised, as described in A above, may be rebutted by any producer who shares in the cotton crop but who does not participate in the planting of cotton on the farm (either by his own labor or by labor procured or used by him for that purpose) by strict and convincing proof that the excess acreage was planted without his knowledge and without his consent, or, if planted with his knowledge but without his consent, by strict and convincing proof that he made every reasonable effort to prevent the planting of cotton in excess of the cotton acreage allotment for the farm. Satisfactory rebuttal by such a producer shall not excuse any other producer on the farm.

C. It is to be observed that the presumption raised, as described in A above, arises only when the acreage planted to cotton in 1940 exceeds the cotton acreage allotment and the facts specified in A(1) or A(2) are found to exist. This differs from the presumption raised in the cases covered by Part II hereof, in that the presumption mentioned in Part II is raised by the mere fact that the planted acreage exceeds the cotton acreage allotment for the farm.

D. The rule in A(2) above is applicable only where the cotton acreage allotment for the farm is established but through error or oversight notice of the allotment is not mailed before completion of cotton planting on the farm, and the producer knows, or it is generally known in the neighborhood, that cotton acreage allotments have been or are being established for farms in the community in which his farm is located and he does not make a reasonable effort to ascertain the amount of his allotment before the planting of cotton on his farm is completed. If he makes a reasonable effort to ascertain the amount of his allotment but fails to obtain this information, the case should be decided in accordance with the rule stated in A(1) above. If he ascertains the amount of the cotton acreage allotment prior to completion of the planting of cotton on the farm, the case shall be decided in accordance with the rules set forth in Part I hereof, even though no notice of allotment is mailed.

E. In deciding whether the number of acres planted to cotton on the farm exceeds the number of acres which the producer might reasonably have expected to be allotted to the farm, careful examination should be made of all pertinent records respecting the farm and the previous farming operations of the producer thereon and full and fair consideration given to all the relevant circumstances, both favorable and unfavorable to the producer.

F. In making determinations in cases coming under this Part III, the following instructions are to be observed:

(1) if the acreage planted to cotton on the farm in 1940 does not exceed the cotton acreage allotment by more than the applicable amount indicated in (a) and (b) below, the allotment shall not be considered as having been knowingly overplanted if it clearly appears from all the circumstances that in good faith a diligent effort was made to plant within the cotton acreage allotment.

(a) on farms with cotton acreage allotments of 30 acres or less, where the allotment has not been overplanted by more than 3 acres.

(b) on farms with cotton acreage allotments in excess of 30 acres, where the allotment has not been overplanted by more than the smaller of (i) 10 percent of the allotment, or (ii) 25 acres.

(2) if the acreage planted to cotton exceeds the limit set out in (1)(a) and (1)(b) above, the cotton acreage allotment shall be considered as having been knowingly overplanted unless the facts establish beyond any reasonable doubt that the producer in question had reasonable ground to expect that the allotment which would be made to the farm would equal or exceed the acreage which was planted to cotton on the farm and that under the circumstances a bona fide effort (such as making a substantial reduction in the planted acreage in 1940 as compared with the acreage planted in 1939) was made to plant within the cotton acreage allotment.

PART IV. -- EXECUTION OF FORM SRM-447, "DATA FOR DETERMINING WHETHER COTTON ACREAGE ALLOTMENT WAS KNOWINGLY OVERPLANTED IN 1940."

Form SRM-447, a copy of which is attached, must be executed for each farm on which the cotton acreage allotment is exceeded by more than the limit set out in paragraph F(1) of Part III hereof, if the county committee recommends that such allotment be considered as unknowingly overplanted. This includes cases where notice of the cotton acreage allotment is mailed to the producer before planting is completed, although it seems that county committees will rarely, if ever, have good ground to find the allotment unknowingly overplanted in such

cases, if the limit set out in F(1) of Part III hereof is exceeded.

Form SRM-447 shall be executed in duplicate. The original shall be submitted to the State office with the corresponding application for payment and the copy shall be retained in the county office files. Every applicable item of information called for on the form must be included, and all other facts bearing on the case should be set forth on the reverse side thereof. One Form SRM-447, properly signed by the farm operator, will excuse all the producers on the farm, if approved by the county and State committees.

PART V. -- EXECUTION OF STATEMENT WHERE COTTON ALLOTMENT IS KNOWINGLY OVERPLANTED BY OPERATOR BUT LANDLORD IS NOT RESPONSIBLE THEREFOR.

In any case where a producer who shares in the cotton crop but who does not participate in the planting of the cotton on a farm (either by his own labor or by labor procured or used by him for that purpose) is found by the county committee not to be responsible for the overplanting of the cotton acreage allotment on such farm, by reason of the fact that the excess acreage was planted without his knowledge or consent, or if planted with his knowledge it was done without his consent, and he has shown to the committee by strict and convincing proof that he made every reasonable effort to prevent the planting of cotton in excess of the cotton acreage allotment for the farm, full details of the case must be set forth in a statement, in duplicate, over the signatures of the producer and at least two members of the county committee, and the original thereof attached to the application when the latter is submitted to the State office. In such cases it is not necessary that a Form SRM-447 be prepared.

PART VI. -- APPROVAL OF STATE COMMITTEE

The State committee shall carefully consider each case covered by a Form SRM-447 or by a statement as required in Part V hereof. If the committee determines that the allotment for the farm covered by the Form SRM-447 was knowingly overplanted, or that the landlord for whom the statement was submitted should not be excused for the overplanting of the cotton acreage allotment on the farm in question, it shall notify the county committee accordingly. If it concurs in the county committee's recommendation, it shall indicate its approval on the reverse side of Form SRM-447, or on the bottom of the statement respecting the landlord. The finding of the State committee in such cases shall be final, unless any producer affected by the finding appeals from an adverse decision of that body.

I. W. Duggan

I. W. Duggan,
Director, Southern Division.

United States Department of Agriculture
Agricultural Adjustment Administration
Southern Division

(State and county code and farm
serial No.)

(Name of County)

DATA FOR DETERMINING WHETHER COTTON ACREAGE
ALLOTMENT WAS KNOWINGLY OVERPLANTED IN 1940

1. The undersigned producer requests and the county committee recommends that the cotton acreage allotment on the farm identified above be considered as unknowingly overplanted in 1940 for the reasons here fully stated (if more space is needed, use reverse side):

Cropland		Type of measurement		Final cotton allotment		Acreage planted to cotton	
1939	1940	1939	1940	1939	1940	1939	1940

(Note: Explain on reverse side any appreciable difference in cropland figures.)

3. Is the 1940 farm operator the same person as the 1939 operator? (Yes or No) _____
4. Original notice of allotment, showing _____ acres, was mailed on _____, 19____
5. Corrected notice of allotment, showing _____ acres, was mailed on _____, 1940
(Note: Explain on reverse side any error in original notice of allotment)
6. Date seeding of cotton was completed on this farm _____, 1940
7. Date notice of measured acreage of cotton was mailed to operator _____, 1940
8. Date on which cotton picking began on this farm _____, 1940
9. Date first picking of entire cotton acreage on farm was completed _____, 1940
10. Producer(s) plowed up _____ acres of unpicked cotton on this farm on _____, 1940
11. Other farms in county owned or operated by this producer:

Serial No.	Total
Owner or operator?	XXXXXXXX
Cotton allotment	
Cotton planted	

(Signature of producer)

(Signature of county committeeman)

(Date)

(Signature of county committeeman)

